

STAYED, TYPE I-FOIA

**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:18-cv-00654-TJK**

SURGEY v. ENVIRONMENTAL PROTECTION AGENCY  
Assigned to: Judge Timothy J. Kelly  
Cause: 05:552 Freedom of Information Act

Date Filed: 03/22/2018  
Jury Demand: None  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff****NICHOLAS SURGEY**

represented by **Michael T. Kirkpatrick**  
PUBLIC CITIZEN LITIGATION  
GROUP  
1600 20th Street, NW  
Washington, DC 20009  
(202) 588-7728  
Fax: (202) 588-7795  
Email: [mkirkpatrick@citizen.org](mailto:mkirkpatrick@citizen.org)  
**ATTORNEY TO BE NOTICED**

**Patrick D. Llewellyn**  
PUBLIC CITIZEN LITIGATION  
GROUP  
1600 20th Street, NW  
Washington, DC 20009  
(202) 588-7727  
Fax: (202) 588-7795  
Email: [pllewellyn@citizen.org](mailto:pllewellyn@citizen.org)  
**ATTORNEY TO BE NOTICED**

V.

**Defendant****ENVIRONMENTAL PROTECTION  
AGENCY**

represented by **Scott Leeson Sroka**  
U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-7113  
Fax: (202) 252-2599  
Email: [scott.sroka@usdoj.gov](mailto:scott.sroka@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Rhonda Lisa Campbell**  
U.S. ATTORNEY'S OFFICE FOR THE  
DISTRICT OF COLUMBIA  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2559  
Fax: (202) 252-2599  
Email: [rhonda.campbell@usdoj.gov](mailto:rhonda.campbell@usdoj.gov)  
**TERMINATED: 04/10/2018**

Date Filed	#	Docket Text
03/22/2018	<u>1</u>	COMPLAINT against ENVIRONMENTAL PROTECTION AGENCY ( Filing fee \$ 400 receipt number 0090-5383892) filed by NICHOLAS SURGEY. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons to EPA, # <u>3</u> Summons to U.S. Attorney, # <u>4</u>

		Summons to Attorney General)(Llewellyn, Patrick) (Attachment 1 replaced on 3/26/2018) (jd) (Entered: 03/22/2018)
03/22/2018		Case Assigned to Judge Timothy J. Kelly. (jd) (Entered: 03/26/2018)
03/26/2018	<u>2</u>	SUMMONS (3) Issued Electronically as to ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General. (Attachment: # <u>1</u> Notice and Consent)(jd) (Entered: 03/26/2018)
03/27/2018	<u>3</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 3/27/2018. Answer due for ALL FEDERAL DEFENDANTS by 4/26/2018. (Llewellyn, Patrick) (Entered: 03/27/2018)
04/02/2018	<u>4</u>	NOTICE of Appearance by Michael T. Kirkpatrick on behalf of NICHOLAS SURGEY (Kirkpatrick, Michael) (Entered: 04/02/2018)
04/05/2018	<u>5</u>	NOTICE of Appearance by Rhonda Lisa Campbell on behalf of ENVIRONMENTAL PROTECTION AGENCY (Campbell, Rhonda) (Entered: 04/05/2018)
04/10/2018	<u>6</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to ENVIRONMENTAL PROTECTION AGENCY. Attorney Rhonda Lisa Campbell terminated. (Campbell, Rhonda) (Entered: 04/10/2018)
04/25/2018	<u>7</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Scott Leeson Sroka on behalf of All Defendants Substituting for attorney Rhonda Campbell (Sroka, Scott) (Entered: 04/25/2018)
04/26/2018	<u>8</u>	ANSWER to Complaint by ENVIRONMENTAL PROTECTION AGENCY.(Sroka, Scott) (Entered: 04/26/2018)
04/26/2018		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. It is hereby ORDERED that the parties shall meet, confer, and file a joint proposed schedule for briefing or disclosure by May 10, 2018. Signed by Judge Timothy J. Kelly on 4/26/2018. (lctjk1) (Entered: 04/26/2018)
04/27/2018		Set/Reset Deadlines: Proposed Briefing Schedule or disclosure due by 5/10/2018. (kh) (Entered: 04/27/2018)
05/10/2018	<u>9</u>	Joint STATUS REPORT by ENVIRONMENTAL PROTECTION AGENCY. (Sroka, Scott) (Entered: 05/10/2018)
05/10/2018		MINUTE ORDER: In light of the parties' <u>9</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further Joint Status Report by June 29, 2018. Signed by Judge Timothy J. Kelly on 5/10/2018. (lctjk1) (Entered: 05/10/2018)
05/11/2018		Set/Reset Deadlines: Joint Status Report due by 6/29/2018. (kh) (Entered: 05/11/2018)
06/28/2018	<u>10</u>	Joint STATUS REPORT by ENVIRONMENTAL PROTECTION AGENCY. (Sroka, Scott) (Entered: 06/28/2018)
07/03/2018		MINUTE ORDER: In light of the parties' <u>10</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further Joint Status Report by July 27, 2018. Signed by Judge Timothy J. Kelly on 7/3/2018. (lctjk1) (Entered: 07/03/2018)
07/27/2018	<u>11</u>	Joint STATUS REPORT by NICHOLAS SURGEY. (Attachments: # <u>1</u> Text of Proposed Order)(Llewellyn, Patrick) (Entered: 07/27/2018)
07/30/2018		MINUTE ORDER: In light of the parties' <u>11</u> Joint Status Report, it is hereby ORDERED that the following schedule will govern further proceedings: (1) Defendant shall file its motion for summary judgment and Vaughn index by August 27, 2018; (2) Plaintiff shall file his opposition to Defendant's motion and cross-motion by September 24, 2018; (3) Defendant shall file its opposition to Plaintiff's cross-motion and reply in support of its motion by October 15, 2018; and (4) Plaintiff shall file his reply in support of his cross-motion by November 5, 2018. Signed by Judge Timothy J. Kelly on 7/30/2018. (lctjk1) (Entered: 07/30/2018)
08/24/2018	<u>12</u>	Consent MOTION for Extension of Time to <i>File Motion for Summary Judgment</i> by ENVIRONMENTAL PROTECTION AGENCY (Sroka, Scott). Added MOTION to

		Modify on 8/27/2018 (tth). (Entered: 08/24/2018)
08/27/2018		MINUTE ORDER granting Defendant's <u>12</u> Consent Motion for Enlargement of Time and Modification of Briefing Schedule. It is hereby ORDERED that the following schedule will govern further proceedings: (1) Defendant shall file its motion for summary judgment and Vaughn index by September 10, 2018; (2) Plaintiff shall file his opposition to Defendant's motion and cross-motion by October 8, 2018; (3) Defendant shall file its opposition to Plaintiff's cross-motion and reply in support of its motion by October 29, 2018; and (4) Plaintiff shall file his reply in support of his cross-motion by November 19, 2018. Signed by Judge Timothy J. Kelly on 8/27/2018. (lctjk1) (Entered: 08/27/2018)
08/27/2018		Set/Reset Deadlines: Summary Judgment Motion and Vaughn Index due by 9/10/2018. Response to Motion for Summary Judgment due by 10/8/2018. Reply to Motion for Summary Judgment due by 10/29/2018. (kh) (Entered: 08/27/2018)
09/10/2018	<u>13</u>	MOTION for Summary Judgment <i>and Supporting Memorandum</i> by ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Statement of Facts and Order, # <u>2</u> Declaration of Elizabeth White, # <u>3</u> Declaration of Thomas Seaton, # <u>4</u> Exhibit, # <u>5</u> Exhibit Vaughn Index)(Sroka, Scott) (Entered: 09/10/2018)
10/04/2018	<u>14</u>	Unopposed MOTION to Stay <i>Summary Judgment Briefing</i> by NICHOLAS SURGEY (Attachments: # <u>1</u> Text of Proposed Order)(Llewellyn, Patrick) (Entered: 10/04/2018)
10/10/2018		MINUTE ORDER granting Plaintiff's <u>14</u> Unopposed Motion to Stay Summary Judgment Briefing. It is hereby ORDERED, for good cause shown and nunc pro tunc to October 4, 2018, that this case is STAYED until further order of the Court. Pursuant to the parties' request, they shall file a joint status report on October 19, 2018. Signed by Judge Timothy J. Kelly on 10/10/2018. (lctjk1) (Entered: 10/10/2018)
10/19/2018	<u>15</u>	Joint STATUS REPORT by NICHOLAS SURGEY. (Attachments: # <u>1</u> Text of Proposed Order)(Llewellyn, Patrick) (Entered: 10/19/2018)
10/19/2018		MINUTE ORDER. In light of the parties <u>15</u> Joint Status Report, it is hereby ORDERED that the stay is LIFTED and that the following schedule will govern further proceedings: Plaintiff shall file his combined cross-motion for summary judgment and opposition to Defendant's motion for summary judgment by November 9, 2018; Defendant shall file its combined reply in support of its motion for summary judgment and opposition to Plaintiff's cross-motion by November 30, 2018; and Plaintiff shall file his reply in support of his cross-motion by December 21, 2018. Signed by Judge Timothy J. Kelly on 10/19/2018. (lctjk1) (Entered: 10/19/2018)
10/22/2018		Set/Reset Deadlines: Defendant's opposition to Plaintiff's cross-motion due by 11/30/2018. (kh) (Entered: 10/22/2018)
11/09/2018	<u>16</u>	Cross MOTION for Summary Judgment by NICHOLAS SURGEY (Attachments: # <u>1</u> Declaration of Nicholas Surgey, # <u>2</u> Declaration of Patrick D. Llewellyn, # <u>3</u> Text of Proposed Order)(Llewellyn, Patrick) (Entered: 11/09/2018)
11/09/2018	<u>17</u>	Memorandum in opposition to re <u>13</u> MOTION for Summary Judgment <i>and Supporting Memorandum</i> filed by NICHOLAS SURGEY. (Attachments: # <u>1</u> Declaration of Nicholas Surgey, # <u>2</u> Declaration of Patrick D. Llewellyn, # <u>3</u> Text of Proposed Order)(Llewellyn, Patrick) (Entered: 11/09/2018)
11/30/2018	<u>18</u>	MOTION for Extension of Time to File Response/Reply as to <u>16</u> Cross MOTION for Summary Judgment by ENVIRONMENTAL PROTECTION AGENCY (Sroka, Scott) (Entered: 11/30/2018)
11/30/2018	<u>19</u>	Memorandum in opposition to re <u>18</u> MOTION for Extension of Time to File Response/Reply as to <u>16</u> Cross MOTION for Summary Judgment filed by NICHOLAS SURGEY. (Attachments: # <u>1</u> Text of Proposed Order)(Llewellyn, Patrick) (Entered: 11/30/2018)
12/04/2018		MINUTE ORDER granting Defendant's <u>18</u> Motion for Extension of Time, nunc pro tunc to November 30, 2018 and for good cause shown. It is hereby ORDERED that the following schedule will govern further proceedings: Defendant shall file its opposition to Plaintiff's cross-motion for summary judgment and reply in support of its motion for summary judgment by December 14, 2018 and Plaintiff shall file his reply in

		support of his cross-motion for summary judgment by January 4, 2019. Signed by Judge Timothy J. Kelly on 12/4/2018. (lctjk1) (Entered: 12/04/2018)
12/04/2018		Set/Reset Deadlines: Defendant's Reply to Motion for Summary Judgment due by 12/14/2018. (kh) (Entered: 12/04/2018)
12/04/2018	<u>20</u>	MOTION for Extension of Time to File Response/Reply as to <u>16</u> Cross MOTION for Summary Judgment by NICHOLAS SURGEY (Attachments: # <u>1</u> Text of Proposed Order)(Llewellyn, Patrick) (Entered: 12/04/2018)
12/04/2018		MINUTE ORDER granting, for good cause shown, Plaintiff's <u>20</u> Motion for Extension of Time. It is hereby ORDERED that Plaintiff shall file his reply in support of his cross-motion for summary judgment by January 11, 2019. Signed by Judge Timothy J. Kelly on 12/4/2018. (lctjk1) (Entered: 12/04/2018)
12/14/2018	<u>21</u>	Memorandum in opposition to re <u>16</u> Cross MOTION for Summary Judgment filed by ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Declaration Elizabeth White (Supp), # <u>2</u> Declaration Thomas Seaton (Supp), # <u>3</u> Exhibit C – Supplemental Vaughn Index, # <u>4</u> Exhibit D – Supplemental Production, # <u>5</u> Exhibit E – 11/28 Production)(Sroka, Scott) (Entered: 12/14/2018)
12/14/2018	<u>22</u>	REPLY to opposition to motion re <u>13</u> MOTION for Summary Judgment and <i>Supporting Memorandum</i> filed by ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Declaration of Elizabeth White (Supp), # <u>2</u> Declaration of Thomas Seaton (Supp), # <u>3</u> Exhibit C – Supplemental Vaughn Index, # <u>4</u> Exhibit D – Supplemental Production, # <u>5</u> Exhibit E – 11/28 Production)(Sroka, Scott) (Entered: 12/14/2018)
01/11/2019	<u>23</u>	REPLY to opposition to motion re <u>16</u> Cross MOTION for Summary Judgment filed by NICHOLAS SURGEY. (Llewellyn, Patrick) (Entered: 01/11/2019)